



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

May 16, 2003

TO: State Board of Education

FROM: Thomas D. Watkins, Jr., Chairman

SUBJECT: Update on Educational Legislation

There has been discussion and movement on several legislative initiatives during the past month, in addition to the Department and State School Aid Budgets for the next fiscal year. Other bills that have been introduced but not yet discussed in committee may also be of interest to you. Attached to this memorandum are the following items:

- Summary of the Department of Education budget for 2003-2004, as passed the House on May 15.
- Summary of the State School Aid budget for 2003-2004, as passed the House on April 10.
- Itemized listing of selected pending legislation related to education.
- Staff and legislative analyses of selected bills, as indicated on the itemized listing.

It is recommended that the State Board of Education receive the Update on Educational Legislation as provided in the Superintendent's memorandum dated May 16, 2003.

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

Summary: As Passed the House
DEPARTMENT OF EDUCATION FY 2003-04
House Bill 4391 (H-1)



Analyst: Mary Ann Cleary
Laurie Cummings
Telephone: 373-8080

Budget Overview

The State Board of Education is an eight-member elected board constitutionally mandated to provide leadership and supervision for public education in Michigan. The Department of Education (DOE) is the administrative arm of the Board charged with implementing state and federal educational mandates and administering programs. Major responsibilities of the DOE include developing and overseeing the K-12 school system, certifying teachers, collecting and reporting educational data, disbursing funds to educational organizations, and providing technical assistance to local school districts.

Summary of Major Budget Issues

School Breakfast Program. The House concurred with the Executive in the increase of \$2,595,200 in General Funds to maintain the School Breakfast Program.

Cost Reductions from EO 2003-03. The House concurred with the Executive that it would continue the GF/GP reductions made through Executive Order 2003-03, which includes reducing costs for travel, contracted services, materials and supplies, worker's compensation, and state vehicle leases; a total savings of \$1,039,700.

Federal Program Eliminations. Several grants are no longer funded by the federal government; the appropriations for those grants have therefore been eliminated.

State Program Eliminations. The House recommended the transfer of the Motorcycle Safety Education Program to the Department of State and the transfer of the Off-Road Vehicle Safety Training program to the Department of Natural Resources, funded with restricted fees, resulting in a combined \$1,951,300 reduction to the Department.

Administrative Savings. The recommended budget would reduce GF/GP funding for administration by \$975,900 or 14.4 percent.

Education Commission and State Tenure Commission. The House concurred with the Executive in eliminating the membership in the Education Commission of the States (\$99,300); eliminating State Tenure Commission per diem payments (\$11,100).

FY 2003-04 Recommendations

FY 2002-03 YTD		Executive	House	Senate	Enacted	Difference: House to 2002-03	
(as of 3/6/03)						Amount	%
IDG/IDT	\$1,000,000					\$0	0.0
Federal	166,260,200					-101,780,800	-61.2
Local	4,744,200					0	0.0
Private	701,400					0	0.0
Restricted	14,430,000					-1,822,400	-12.6
GF/GP	29,018,216					374,284	1.3
Gross	\$216,154,016	\$112,825,000				(\$103,228,916)	-47.8
FTEs	442.1	433.1	433.			-9.0	-2.0

House Fiscal Agency – 5/15/2003

<u>Major Budget Changes from FY 2002-03 YTD Appropriations:</u>		<u>YTD</u> <u>FY 2002-03</u>	<u>House Change</u>	
1. School Breakfast Program		Gross	\$7,774,900	\$2,595,200
The Executive and House recommend an increase of 33% in general funds to fully fund this program. The increase of \$2.6 million covers the cost of additional students participating in the program and higher per-student costs.		GF/GP	\$7,774,900	\$2,595,200
2. Elimination of Federal Grants		Gross	\$120,904,100	(\$100,904,100)
The Executive and House proposals eliminate federal funding for the following grant programs: Class Size Reduction, Eisenhower Math and Science, Goals 2000, and Technology Literacy Challenge Grants. Funding for Urgent School Renovation was reduced by \$25 million to \$20 million at the federal level. Administration for all the above programs is also eliminated.		Federal	120,904,100	(100,904,100)
		GF/GP	\$0	\$0
3. Elimination of Motorcycle and Off-Road Vehicle Safety Programs		Gross	\$1,951,300	(\$1,951,200)
The Executive recommends elimination of the Motorcycle Safety Education program at \$1.5 million and Off-Road Vehicle Safety Training program at \$421,100. Fees that currently fund these programs would be reduced accordingly. The House recommends the transfer of the Motorcycle Safety program to the Department of State and the transfer of the Off-Road Vehicle Safety program to the Department of Natural Resources. It also recommends retaining \$100 for administration of the Motorcycle Safety Education Program.		Restricted	1,951,300	(1,951,200)
		GF/GP	\$0	\$0
4. Technology Program Transfers		Gross	\$2,906,900	(\$392,800)
The Executive and House proposals transfer the Center for Educational Performance and Information (CEPI) FTEs and funding of (\$685,100) to DMB which has oversight over the programmatic aspects of CEPI, a (\$53,900) reduction in programming costs for this unit and the transfer of all information technology FTEs transferred into this budgetary unit.		Federal	1,045,500	231,400
		Local	0	44,800
		Restricted	168,200	0
		GF/GP	\$1,693,200	(\$669,000)
5. Building Occupancy Charge Changes		Gross	\$1,439,600	(\$93,600)
The Executive and House recommend reducing the general fund by \$200,000 and replacing it with federal funds (\$161,700) and restricted funds (\$38,300). Negative adjustments of (\$93,600) to the building occupancy charges were also recommended to reflect the actual utility and security costs as determined by DMB.		Federal	715,700	115,000
		Restricted	172,000	19,200
		GF/GP	\$551,900	(\$227,800)
6. Administration Law Funding Changes		Gross	\$723,500	(\$62,600)
The Executive recommends a reduction of 19.7% in this program and a funding shift of \$32,000 from general funds to teacher certification revenues. The House recommendation is for an 8.7% reduction and a funding shift of \$132,000 from general funds to teacher certification fund revenues.		Federal	203,600	0
		Restricted	0	132,000
		GF/GP	\$519,900	(\$194,600)
7. Reduction in Funding for Administration		Gross	NA	(\$662,300)
The Executive and House recommend reducing general funds		Federal	NA	94,000

Major Budget Changes from FY 2002-03 YTD Appropriations:		YTD FY 2002-03	House Change
for administration by \$801,300 by reducing travel and CSS&M, not filling vacant positions and fund shifts throughout the department.	Restricted	NA	45,000
	GF/GP	NA	(\$801,300)
8. Education Commission of the States Membership	Gross	\$99,300	(\$99,300)
The Executive and House recommend the elimination of the dues for the State's membership in the national organization, Education Commission of the States.	GF/GP	\$99,300	(\$99,300)
9. Early Retirement and Terminal Leave Adjustments	Gross	NA	(\$173,300)
The Executive and House propose savings from early retirement savings for FY 2003-04 of \$93,600 and adjustments to the terminal leave payments of \$79,700.	GF/GP	NA	(\$173,300)
11. Eliminate State Tenure Commission Per Diems	Gross	\$11,100	(\$11,100)
The Executive and House recommend the elimination of the per diem of \$50 per meeting to the State Tenure Commission members.	GF/GP	\$11,100	(\$11,100)

Major Boilerplate Changes from FY 2002-03:

Sec. 206 Contingency Funds –Deleted

The House eliminates the federal, restricted, local and private contingency fund language.

Sec. 219. Motorcycle Safety Education-New

The House recommends that the Department of Education work with the Department of State to ensure the motorcycle safety program is administered in the same manner as the current year.

Sec. 220. Off-Road Vehicle Safety Training Education-New

The House recommends that the Department of Education work with the Department of Natural Resources to ensure the off-road vehicle safety training program is administered in the same manner as the current year.

Sec. 221. Online Assessment System – New

The House added new language stating that the department shall develop an online assessment system to supplement the Michigan Education Assessment Program test and provide immediate feedback on student achievement.

Sec. 601. Charter School Office – Revised

Retains current-law language recommended to be deleted by the Executive to require the Department to staff the charter school office with 3.5 FTEs and \$350,000. Adds new intent language that the Charter Schools Office staffing issue will be re-assessed based on data provided by the Department of Education.

Sec. 801. Teacher Tenure Report - New

Requires the Department to report to the legislature the history, purpose, and estimated litigation costs of teacher tenure.

Summary: As Passed the House
SCHOOL AID FY 2003-04
House Bill 4401(H 1)



Analyst: Mary Ann Cleary
Laurie Cummings
Telephone: 373-8080

Budget Overview

The School Aid budget makes appropriations to the state's 554 local school districts, 184 public school academies, and 57 intermediate school districts for operations and certain categorical programs. It also appropriates funds to the Departments of Education, Career Development, and other agencies to implement certain grants and other programs related to K-12 education. There is currently a school aid budget in place for FY 2003-04.

Summary of Major Budget Issues

Foundation Allowances – Per-pupil foundation allowances, which are used to support day-to-day school operations, were recommended to remain at the FY 2002-03 level.

Revenue Sources – The House assumed \$138.7 million in new revenue from the refinancing of the School Bond Loan Fund debt, \$50 million in new money from two new lottery games, and \$20.3 million from the closing of tax loopholes. It also assumed a \$198.4 million General Fund contribution to the School Aid Fund.

Retirement Rate Freeze – The percentage of payroll contribution rate that districts are required to pay for school retirement would remain at the FY 2002-03 level of 12.99%, saving districts an estimated \$133 million in FY 2003-04.

Adult Education – This program was recommended to be reduced by \$49 million to \$28.5 million.

Membership Blend – The blend used to calculate foundation allowance payments would be the sum of 80% of the current fall pupil count plus 20% of the previous February's count, the same as current law.

Categorical Programs Eliminated – The following are programs recommended to be eliminated from the School Aid budget: Career Preparation System, the Partnership for Adult Learning (the "PAL" program), School Health Curriculum grants, Accreditation Assistance to the Department, Golden Apple Awards, and the Autism grant to Grand Valley State University.

Reform Board Allocation – The House eliminated language that would allocate \$15 million on a per-pupil basis to the Detroit school district in FY 2003-04 as long as the district is operated under a reform board.

Small Class-Size Allocation. The House reduced a \$26.7 million allocation to districts that received a grant under former Sec. 32e (Small Class-Size Grants) by 24.75% to \$20.1 million.

	FY 2002-03 YTD (as of 3/6/03)	Executive	House	Senate	Enacted	Difference: House to 2002-03 YTD Amount	%
IDG/IDT	\$0		0				
Federal	1,219,825,200		13,900				
Local	700,000		0				
Private	0		0				
Restricted	11,164,441,400		18,400				
GF/GP	198,413,500		10,100				
Gross	\$12,583,380,100	\$12,467,963,100	\$12,513,262,400			(\$70,117,700)	

The numbers in the table above reflect the change from FY 2002-03 appropriations, after a 3.8% proration.

Major Budget Changes from FY 2003-04 YTD Appropriations:		YTD FY 2003-04	House Change FY 2003-04
1. Early Childhood Grants	Gross	\$2,000,000	(\$1,000,000)
The Executive recommendation eliminated Early Childhood Grants to community-based programs, while the House funded the grants at \$1.0 million.	GF/GP	\$2,000,000	(\$1,000,000)
2. Parenting Programs	Gross	NA	\$3,326,000
The Executive recommendation created grants to ISDs that provide programs for preschool children and their parents to improve school readiness and encourage positive parenting skills. The House agreed with the Executive.	Restricted	NA	3,326,000
3. Gifted and Talented Programs	Gross	\$5,000,000	(\$4,000,000)
The Executive eliminated Gifted and Talented Programs. The House reduced funding to \$1 million.	Restricted	5,000,000	(4,000,000)
4. Vocational Education	Gross	\$31,027,600	(\$1,008,400)
The Executive and House reduced the appropriation for vocational education by 3.25% from current law.	Restricted	31,027,600	(\$1,008,400)
5. Career Preparation System	Gross	\$22,200,000	(\$22,200,000)
The Executive and House eliminated funding for the Career Preparation System, which incorporates curriculum with work-based learning programs to help students make career choices.	GF/GP	\$22,200,000	(\$22,200,000)
6. Intermediate School District Operations	Gross	95,028,100	(\$3,632,100)
The appropriation for ISD operations is reduced by 6.6% to \$88.7 million under the Executive proposal. The House reduced funding by 3.8% to \$91.4 million.	Restricted	95,028,100	(\$3,632,100)
7. Accreditation Assistance	Gross	\$2,000,000	(\$2,000,000)
Accreditation Assistance to the Department of Education is eliminated under both the Executive and House recommendations.	GF/GP	\$2,000,000	(\$2,000,000)
8. Center for Education Performance and Information	Gross	\$6,857,600	(\$1,926,100)
The Executive reduced the state appropriation for the Center for Education Performance and Information by \$4.1 million and eliminated funding for a contract with Standards and Poors. The House reduced the appropriation by a total of \$1.9 million and allocated \$2 million to continue a contract with Standards and Poors.	Federal	2,357,600	(426,100)
	GF/GP	\$4,500,000	(\$1,500,000)
9. Golden Apple Awards	Gross	\$1,320,000	(\$1,320,000)
The Executive and House eliminated the Golden Apple Program, which awards \$10,000 to schools with high or improving MEAP scores.	Restricted	1,320,000	(1,320,000)

10. Michigan Virtual University	Gross	\$11,584,700	(\$10,584,700)
The Executive recommendation reduced the state appropriation for the Michigan Virtual University (MVU) to \$2.0 million, with \$1.0 million of this for Learning Without Limits grants. The House allocated \$1.0 million for the MVU and transferred the Learning Without Limits grants to a new section.	Federal	6,584,700	(6,584,700)
	GF/GP	5,000,000	(4,000,000)
11. Learning Without Limits Grants	Gross	NA	24,712,700
The House appropriated \$24.7 million in total funds and adds new language that expands a pilot program to purchase wireless technology for 6 th grade pupils. These grants were funded with \$3.5 million in state funds in FY 2003-04.	Federal	NA	16,712,700
	Restricted	NA	8,000,000
12. Math and Science Centers	Gross	\$10,232,300	(\$5,232,300)
The Executive eliminated state funding for the 33 Math and Science Centers throughout the state, while the House reduced funding by 51% to \$5.0 million.	Restricted	9,684,300	(4,684,300)
	GF/GP	\$548,000	(\$548,000)
13. School Health Curriculum Grants	Gross	\$3,180,000	(\$3,180,000)
The Executive and House eliminated School Health Curriculum grants to districts and ISDs.	Restricted	3,180,000	(3,180,000)
14. Adult Education	Gross	\$77,500,000	(\$49,043,300)
The Executive reduced the Adult Education program by \$57.5 million and the per-participant amount from \$2,850 to \$880. The House reduced the appropriation by \$49 million to \$28.5 million and kept the per-participant amount at \$2,850.	Restricted	77,500,000	(49,043,300)
15. Partnership for Adult Learning	Gross	\$20,000,000	(\$20,000,000)
The Executive and House eliminated the Partnership for Adult Learning program, which provides English as a second language, GED preparation, and high school completion programs.	GF/GP	\$20,000,000	(\$20,000,000)

Major Boilerplate Changes from FY 2003-04:

Sec. 6(4). Membership Blend – RETAINED

The Executive recommended changing the membership blend upon which foundation allowance payments are calculated from a “80/20” blend—a sum of 80% of the current fall pupil count plus 20% of the previous February’s count—to a 50/50 pupil membership blend—a sum of 50% of the current fall pupil count plus 50% of the previous February’s count. The House retained the 80/20 blend.

Sec. 6(4)(y). Three-Year Average for Declining Enrollment Districts – MODIFIED

The Executive would eliminate a provision that gives certain districts in the Lower Peninsula with declining enrollment the ability to use a three-year average membership, giving these districts additional pupil membership to count towards their foundation allowance payments. The House retained this provision, but expanded the language to also include districts in the Upper Peninsula.

Sec. 11(3). Proration Language – MODIFIED

Current law requires an across-the-board proration when revenues are expected to fall short of appropriations. The House replaced this language with a requirement for the State Budget Director to develop a fair and equitable method of reducing payments.

Sec. 20(1). Basic Foundation Allowance – MAINTAINED

The Executive retained per-pupil foundation allowances at the same level as FY 2002-03. The House version concurs with the Executive.

Sec. 20L. School District Consolidation – MODIFIED

The Executive replaced current law language that gives consolidating districts a new foundation allowance equal to the highest foundation allowance among the consolidating districts plus \$50, with new language that would give consolidating districts a pupil-weighted average foundation allowance plus \$10. The House would give consolidating districts and districts that are annexed a pupil-weighted average foundation allowance. It would also create a consolidation incentive program that pays \$50 per pupil in a consolidated district, with payments to districts capped at \$500,000 per consolidated district.

Sec. 31a. At-Risk Program– MODIFIED

The Executive proposed expanding the allowable uses of funds to include tutorial services and programs that combine academic, enrichment, and recreational activities. The House concurred with these recommendations and also added the following additional uses; early childhood programs, English as a Second Language programs, and uses allowed under section 98b (Learning Without Limits Program).

Sec. 147. MPERS Contribution Subsidy – MODIFIED

The Executive proposed to reduce the estimated percentage of payroll that districts pay for public school employee retirement from 14.37% to 12.99%, contingent upon all districts in the state refinancing their School Bond Loan Fund debt. The Executive also proposed using funds in a Michigan Public School Employee Retirement System (MPERS) stabilization subaccount to offset the difference in the contribution rates. The House agreed with the Executive.

Throughout Bill. Reporting Requirements – MODIFIED

Under the Executive and House recommendations, requirements that districts must report data to the Department of Education would change to require reporting to the Center for Education Performance and Information instead.

New Revenue Sources for FY 2003-04

Revenue Sharing Reserve Funds

The Executive recommends transferring \$198.6 million from a Revenue Sharing reserve fund to replace the General Fund contribution to the School Aid Fund. This is a one-time revenue source. The House would instead keep the \$198.4 million General Fund contribution to school aid.

School Bond Loan Fund Refinance

The Executive recommends transferring a one-time revenue source to the School Aid Fund of approximately \$100 million from an anticipated refinance of School Bond Loan Fund debt. The House agreed, but assumed that \$138.7 million would be raised from the refinance.

New Lottery Revenues

Two new games were recommended by the Executive which would generate an estimated \$50 million in FY 2003-04 for deposit in to the School Aid Fund. The House concurs with the Executive.

Closing Tax Loopholes

The Executive recommended closing various tax loopholes in order to raise an estimated additional \$20.3 million in revenue for schools. The House concurs with the Executive.

**Education Legislation Status
2003-2004 (Excerpt)**

Bill	Sponsor	Description	Status
SB 157**	Scott	<i>Detroit Reform Board</i> ; Eliminates five-year waiting period for ballot proposal regarding the retention of the appointed Detroit reform board.	Passed Senate 4/3/03; House Commerce
SB 179**	Hammerstrom	<i>Sport Safety Training</i> ; Establishes requirement for certification in sport safety training for employment of interscholastic athletic coaches.	Senate Health Policy reported 5/6/03
SB 183*	Cropsey	<i>School Aid Supplemental</i> ; Provides supplemental state aid appropriations for FY 2002-2003.	Passed Senate 5/14/03; House Approps
SB 364	Garcia	<i>Schools Days</i> ; Eliminates minimum 180 day requirement for pupil instruction.	Passed Senate 5/7/03; House Ed
SB 365	Cassis	<i>School Data</i> ; Requires the Center for Educational Performance and Information to collect all school data.	Passed Senate 5/1/03; House Ed
SB 366	Cropsey	<i>Professional Development</i> ; Eliminates professional development requirements.	Passed Senate 5/1/03 House Ed
SB 367	Kuipers	<i>Categorical Fund Use</i> ; Eliminates restrictions on use of at-risk funding for certain school buildings.	Passed Senate 5/14/03; House Approps
SB 368-369	Johnson and Hammerstrom	<i>Accreditation</i> ; Eliminates state accreditation requirements and financial penalties for schools that are not accredited.	Senate Ed
SB 393**	Kuipers	<i>Charter Schools</i> ; Provides oversight and regulations for charter schools.	Senate Ed
SB 462*	Garcia	<i>Motorcycle Safety</i> ; Revises motorcycle education program to transfer program responsibilities from the State Board of Education to the Secretary of State.	Senate Transportation
HB 4025**	Tabor	<i>Drug Use Model Policy</i> ; Requires state model policy and local policies for educators concerning chronic behavioral issues and psychotropic medication.	Passed House 5/8/03; Senate Ed
HB 4032	Shulman	<i>Supplemental Budget</i> ; Provides supplemental budget for 2002-2003.	Passed House 4/3/03; Passed Senate 5/6/03; House non-concurred 5/14/03
HB 4038**	Rocca	<i>Teacher CPR</i> ; Requires certification in CPR for new teacher certification.	House 4/29/03; Health Policy d 5/6/03
HB 4048**	Bradstreet	<i>Certification Exception</i> ; Allows exception to teaching certificate requirement for individuals teaching in a field related to their degree under certain conditions.	
HB 4137**	Bieda	<i>Tobacco Use Prevention</i> ; Encourages public schools to include health programs to prevent tobacco use and addiction in curriculum.	House Ed
HB 4215**	Ward	<i>School Board Elections</i> ; Allows cancellation of uncontested school board elections in the Revised School Code.	House Local Gov't Urban Policy reported 4/29/03
HB 4218**	Middaugh	<i>Student Cell Phone</i> ; Provide authority to local school boards and public school academies to regulate and allow use of cellular phones and pagers in school.	Passed House 5/8/03; Senate Ed

Bill	Sponsor	Description	Status
HB 4227*	Pumford	<i>School Aid Proration</i> ; Provides for an equal dollar per pupil basis for proration of school aid payments to school districts.	Passed House 5/13/03; Senate Approps
HB 4391	Shulman	<i>Education Budget</i> ; Provides appropriations for the Department of Education for FY 2003-2004.	Passed House 5/15/03
HB 4401	Shulman	<i>State Aid</i> ; Provides school aid budget for 2003-2004.	Passed House 4/10/03; Senate Approps K-12 Subcommittee
HB 4453**	Hoogendyk	<i>Teacher Retirement</i> ; Eliminates number of days required for year of retirement credit for teachers and replaces it with an hour requirement of 1,020 hours.	Passed House 5/14/03; Senate Ed
HB 4467*	Ward	<i>School Board Elections</i> ; Provides cancellation of uncontested school board elections in Michigan Election Law.	House Local Gov't & Urban Policy reported 4/29/03
HB 4693*	Palmer	<i>Educational Flexibility and Empowerment</i> ; Allows waiver for certain requirements as part of performance contract.	House Ed

* Bill attached.

**Analysis and bill attached.

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 157 (as passed by the Senate)
Sponsor: Senator Martha G. Scott
Committee: Education

Date Completed 4-17-03

RATIONALE

Public Act 10 of 1999 amended the Revised School Code to create an appointed "school reform board" for the Detroit school district. The Act required the Mayor of Detroit to appoint a seven-member school reform board consisting of the State Superintendent of Public Instruction and six other members, a majority of whom must be electors of the school district. The Act then required the reform board to appoint, by unanimous vote, a chief executive officer (CEO), who assumed the powers, rights, duties, and obligations of the 11-member elected board. The reform board and the appointed CEO effectively replace the elected board for a period of five years, after which the question of retaining the appointed board and the CEO for another five years is to be decided by the voters of Detroit. If the voters decide against retaining them, a new board will be elected.

The vote on whether to retain the school reform board and its CEO, currently Dr. Kenneth Burnley, presently is scheduled to take place at the November 2004 general election. Some want to accelerate this vote because they question the appointed board's legitimacy, they believe that the board has not made significant improvements to the school system, or they consider the issue a distraction to meaningful reform efforts.

CONTENT

The bill would amend the Revised School Code to require that the question of whether to retain the school reform board and chief executive officer of a first class school district, and the authority to appoint them, be placed on the ballot at the August 2003 primary election in the city in which the district is located.

Currently, that question must be placed on the ballot in the November 2004 general election. (The Code defines a district of the first class as one with a pupil membership of at least 100,000, i.e., the Detroit Public Schools.)

Under the Code, if the ballot question is approved by a majority of the school electors voting on it, all of the following apply: The school reform board and the chief executive officer continue in place in the district; the authority of the mayor to appoint members of the school reform board continues; and the question may be placed on the ballot again after the expiration of five years following the election at which the question is approved, if sufficient petitions are filed.

If the ballot question is not approved, the school reform board must arrange with local election officials for the election of a new elected school board for the school district. This election must be at a special election held as soon as practicable, but not sooner than 90 days after the election on the ballot question.

The bill would retain these provisions.

MCL 280.375

BACKGROUND

In September 1999, a lawsuit challenging Public Act 10 was filed in the United States District Court for the Eastern District of Michigan (*Moore, et al. v Detroit School Reform Board, et al.*) The complaint alleged the following:

1) The Act violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and a similar provision in the

Michigan Constitution by denying Detroit's citizens the right to vote for their city's school board and by prohibiting Detroit's elected school board members from being appointed to the school reform board.

2) The Act deprived Detroit's citizens of the right to vote on the basis of their race, in violation of Section 2 of the Federal Voting Rights Act (which provides that "[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color...").

3) The Act violated the Fourteenth and Fifteenth Amendments to the U.S. Constitution and the Equal Protection Clause of the Michigan Constitution because it allegedly was enacted with the intent of denying Detroit's citizens the right to vote on account of their race.

4) The Act conflicted with Article IV, Section 29 of the Michigan Constitution because it was a local act that was not approved by a two-thirds vote of the Michigan Legislature and a majority vote of Detroit's citizens.

5) The Act deprived Detroit's citizens of their right to elect a school board in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and a similar provision in the Michigan Constitution.

6) The defendants violated the First Amendment to the U.S. Constitution by, among other things, penalizing Detroit's voters for opposing the plans of then-Governor Engler and then-Detroit Mayor Archer.

In August 2000, the defendants filed motions for summary judgment, and the plaintiffs filed a motion for partial summary judgment. After conducting a hearing on the motions, the District Court granted summary judgment in favor of the defendants in October 2000. The plaintiffs appealed all aspects of that decision except the Court's dismissal of the First Amendment claim. On June 12, 2002, the U.S. Court of Appeals for the Sixth Circuit affirmed the decision of the District Court.

On February 24, 2003, the United States Supreme Court denied leave to appeal.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

When Public Act 10 was enacted, its opponents claimed that the legislation was a hostile takeover that violated the right of voters to choose their own local school officials. They argued that such a move violated the Voting Rights Act and provisions of the United States and Michigan Constitutions. Further, they claimed that the Detroit Public Schools neither was the worst district nor the worst urban district in the State, and that the legislation did not set objective performance standards by which any school district in Michigan would be considered eligible for takeover by the State.

Despite the outcome of the legal challenge to Public Act 10, the Act in effect disenfranchised the citizens of Detroit. Essentially, Detroit residents have experienced taxation without representation for nearly four years. Moving up the date of the election to retain or remove the reform board and its CEO from November 2004 to August 2003 would restore Detroiters' voting rights over a year earlier than presently scheduled.

Supporting Argument

The establishment of the school reform board has resulted in a wall of bureaucracy that has estranged citizens. Some parents now find it more difficult to resolve conflicts with teachers, and a contractor testified that he had difficulty meeting with the reform board to discuss collecting money he was owed. The fact that these officials are not elected seems to immunize them from the checks and balances that a democracy is supposed to provide.

Opposing Argument

According to its proponents, Public Act 10 primarily was designed to raise student achievement in the Detroit public school system by rooting out ineffectual management and focusing decision-making and accountability on a single elected official, the Mayor of Detroit. Supporters of the Act cited

statistics demonstrating that the Detroit schools were plagued by high drop-out rates, poor test scores, crumbling buildings, and misuse of public funds. According to a column in *The Detroit News* (3-31-03), a \$1.5 billion construction bond issue passed in 1994 went largely unspent: An April 1998 audit revealed that, in four years, school management had spent a mere \$6.3 million, with little visible results. Many claimed that constant differences among elected school board members and school administrators got in the way of significant school improvement.

The reform board and Dr. Burnley and his predecessor, Dr. David Adamany, have worked hard to rebuild the system. Since the enactment of Public Act 10, graduation rates are significantly higher, rising from 29.8% in 1997 to 54.2% in 2001, according to data available on Standard and Poor's website. Dropout rates are slightly improved, decreasing from 15.2% in 1997 to 12.2% in 2001. Financially, the district is stable: While it has little money in reserve (\$140 per student, compared with the State average of \$1,114), its long-term debt per student is \$2,832, significantly lower than the State average of \$7,379.

The reform program is just over two-thirds of the way through its tenure and should be allowed to play out its full five years. Requiring an election this summer would impede improvement efforts that are under way.

Response: Although graduation and dropout rates have improved since implementation of the reform board, standardized test scores have not. The percentage of students passing the MEAP has remained virtually unchanged, going from 34.7% in 1997 to 34.8% in 2001, according to Standard and Poor's data. (In contrast, the State average passing rate for the MEAP is 56.4%, with an average annual improvement of 2.5%.) Detroit's average ACT scores were in the lowest 1.1 percentile of State scores in 2001, also unchanged since 1997. These test data seem to reflect a lack of significant improvement in teaching and learning under the reform board and its appointed CEOs.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have no fiscal impact on State government. If the question were on the ballot of an already scheduled election, such as a primary election as stated in the bill, then there would be no additional cost. However, if the question were presented on its own in a special election, the cost to the City of Detroit to hold the election would be an estimated \$1.2 million to \$1.5 million, according to recent election costs.

Fiscal Analyst: Joe Carrasco

A0304\157a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.